Textron Lycoming Division, Avco Corporation, a wholly owned subsidiary of Textron, Inc. *and* International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) and its Local 787, Petitioner. Case 4–UC–429

September 28, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT AND RAUDABAUGH

The Board has delegated its authority in this proceeding to a three-member panel, which has considered the Employer's request for review of the Regional Director's Decision, Order, and Clarification of Bargaining Unit (pertinent portions of which are attached). The request for review is granted as it raises substantial issues warranting review.

Having carefully examined the entire record, the Board has decided to affirm the Regional Director's decision.[1] In making this determination, we note that Konyar, data entry clerk (DEC) in receiving inspection, and Hyde, turbine data coordinator, are dual-function employees. Each, however, spends a sufficient portion of her time doing work that the Regional Director found, and we agree, is plant clerical work to establish that each is appropriately included in the existing production and maintenance unit. *Berea Publishing Co*., 140 NLRB 516 (1963).

Unlike our dissenting colleague, we are not persuaded that *Berea* should be overruled and that dual-function employees should no longer be treated as analogous to part-time employees. The dissent would only include dual-function employees in a unit if more than half their time is spent performing unit work.

Berea is a well-established precedent that has been reaffirmed in recent years[2] and is not without limiting principles.[3] Although a dual-function employee who performs unit work less than 50 percent of the time may have a weaker community of interest with the full-time unit employees than those who spend more than 50 percent of their time on unit work, voter eligibility and unit placement do not turn only on maximizing homogeneity among unit employees. See *Continental Web Press v. NLRB*, 742 F.2d 1087, 1089–1090 (7th Cir. 1984).

Also, in affirming the Regional Director's decision, we reject the Employer's claim that the classifications the Regional Director included in the unit by clarification are only a portion of the classifications performing similar data entry work. The classifications cited by the Employer in support of this argument either were not newly established, or had not undergone a recent substantial change in duties, or involved duties which are office clerical in nature and not of the type appropriately included in a production and maintenance unit.

MEMBER RAUDABAUGH, dissenting in part.

I dissent as to the inclusion of employees Konyar and Hyde in the bargaining unit. In this regard, I would overrule *Berea Publishing Co*. and return to the sound unit placement rule set forth in *Denver-Colorado Springs*.[1] Hence, I would include only those dual-function employees who spend more than 50 percent of their time doing unit work.

In *Berea Publishing*, the Board decided that the rule applicable to part-time employees should be applied to dual-function employees. Under the rule for part-time employees, if an employee works part-time for one employer and part-time for a different employer, the employee can be included in the first employer's unit even if he works a greater number of hours for the second employer. In *Berea*, this rule was applied to dual-function employees. That is, if an employee works both in the unit and outside the unit for the same employer, he can be included in the unit, even if he works a greater number of hours outside the unit.

I do not agree that dual-function employees should be treated exactly the same as part-time employees. With respect to the part-time employee, all of his work for the employer is spent in the unit. With respect to the dual-function employee, only some of his work for the employer is performed within the unit. The difference is a significant one in terms of community of interest. As a matter of economic reality, unit employees are competing against nonunit employees for limited employer resources. The part-time employee shares with the other unit employees an interest in having these limited resources allocated, to the maximum extent possible, to the unit employees, even at the expense of nonunit employees. By contrast, the dual-function employee may have an interest in having the employer allocate a greater portion of its limited resources for the benefit of the nonunit employees. This would be particularly true if the employee spent more than one-half of his time in the nonunit job.

In sum, it does not necessarily follow that the unit inclusion rules for dual-function employees must be

[1] The Regional Director found that the portion of the petition which seeks to clarify the unit with respect to the data input and status analysts and the DEC in the shop floor control office of the Material Control Department is untimely and dismissed the petition as to these job classifications. However, in his order, the Regional Director inadvertently clarified the unit to exclude those employees. The order is corrected to dismiss that portion of the petition as untimely.

[2] *Manhattan Construction Co*., 298 NLRB 501 (1990); *Oxford Chemicals*, 286 NLRB 187 (1987).

[3] *Sunray Ltd*., 258 NLRB 517 (1981).

[1] *Denver-Colorado Springs-Pueblo Motor Way*, 129 NLRB 1184 (1961).

the same as the rules for part-time employees. Hence, even if the rule for part-time employees is to be left somewhat vague,[2] that is no reason to have the same vague rule apply to dual-function employees. The 50-percent rule, applied to dual-function employees before *Berea*, has the advantages of certainty, predictability, and simplicity. I would adhere to that rule.

[2] The part-time employee is included in the unit if he is regularly employed for sufficient periods of time to demonstrate that he, along with the full-time employee, has a substantial interest in the unit's wages, hours, and conditions of employment.

APPENDIX

3. The Employer is a Delaware corporation engaged in the manufacture of piston and turbine aircraft engines and related parts. It has a manufacturing plant (the Plant) and an office and service hangar (the Airport facility) located in Williamsport, Pennsylvania which are the subject of the petition. The Union and the Employer are parties to a collective bargaining agreement, the most recent of which was effective from April 18, 1987 through April 20, 1990, covering a unit of approxiately 818 ''production and maintenance employees, tool designers, hourly Airport service employees, and . . . shop clerical employees . . . excluding . . . clerical and office employees . . . . The Union seeks to clarify the existing production and maintenance unit to include data entry clerks (DECs) and data input and status analysts (DISAs) in the Quality Department—Metrology Lab, the Quality Department—Receiving Inspection Area, the Shipping Department, and the shop floor control office and the overhaul and remanufactured parts stockroom in the Material Control Department. The Union contends that these job classifications were created after contract negotiations for the 1987 contract and that the employees in these job classifications are plant clericals who share a community of interest with the production and maintenance employees. The Employer takes the position that the job duties performed by the employees in issue existed prior to the 1987 contract and that the job duties have not undergone any substantial change so as to warrant clarifying the unit. Alternatively, the Employer contends that the employees sought are office clericals who are excluded by the collective bargaining agreement and do not share a community of interest with the production and maintenance employees.

The record shows that, because the market currently serviced by the Employer primarily consists of spare parts distributors, the Employer's operating computer system, the Production and Inventory Control System (PICS) installed in 1967, was unable to handle the required data. As a result, in July or August 1988, the Employer installed a new computer system, Textron Lycoming Integrated Products Planning System (TIPPS).

PICS is a ''batch run'' system, i.e., data is input during the day and batch runs are made at night. PICS transactional data is available the next day. PICS, which was designed for planning and controlling engine production, does tracing of inventory and matches inventory to demands. PICS was not designed for selling in a market where forecasts for sales of spare parts are needed. PICS was operated through 14 terminals located in the Management Information Systems (MIS) Department, the production control office area, four or five locations on the shop floor and one terminal in the shipping area. The terminals on the shop floor were used to inquire about parts availability or location. The terminal in the shipping area was used to inquire about inventory levels and location. PICS data entry was, and still is, performed by DECs in MIS or production control. MIS takes data, manipulates it and generates reports, which are utilized by various segments of the Employer's operations, e.g., human resources, products service and production control.

TIPPS is an on-line system that plans and controls the manufacturing of the Employer's products. By utilizing the TIPPS system, data is available as soon as a transaction is made. The Employer anticipated that TIPPS would be fully operational by midsummer 1990. The TIPPS computer is located in the MIS Department where it has about 12 terminals. There are about 35 TIPPS terminals located outside the MIS Department. These terminals are located in the production control department, the spare parts, order entry, finance, engineering, manufacturing and industrial engineering, stockroom, shipping and the ''buy parts'' areas. There are also TIPPS terminals near the foreman's desk on the shop floor.

In addition to PICS and TIPPS, the plant also uses the CO-OP System (CO-OPS). CO-OPS is a computer system based at the Employer's headquarters in Stratford, Connecticut. It is a planning and distribution order entry system for the plant's turbine aircraft engine product line.

The DECs and DISAs have a different pay scale from the production and maintenance employees. The DECs and DISAs in issue are paid a weekly salary and receive straight time for all hours worked in excess of 40 hours per week. The production and maintenance employees receive time and one-half for all hours worked in excess of 8 hours a day, may accumulate unlimited sick leave, receive one extra holiday, and have scheduled breaks.

Donna McQuillen, DEC in the metrology lab in the Quality Department, is supervised by Metrology Supervisor James Lusk. Lusk also supervises some production and maintenance employees. The Metrology department consists of a lab and a gage crib. The lab area is where the gages used in production and inspection are calibrated. The gage crib is where gages are stored. The Metrology Department has its own computer system to keep track of the gages. There are three terminals in the lab area and five in the gage crib. The first computer was installed in the metrology department in December 1986 or January 1987. The data entry work was then performed by employees who worked in other departments. McQuillen became a full-time DEC in the metrology lab in December 1988. She spends about 95 percent of her time entering data from the metrology lab or from the various gages in the plant. The remainder of her time is spent performing secretarial functions.

Monica Konyar, DEC for the receiving inspection area in the Quality Department, is supervised by Manager of Purchase Material Quality Ken Ball and Manager of Engineering Quality Analysis Jay Mankad. The Employer began using TIPPS in the receiving inspection area sometime in 1989. If an item or part received by the Employer requires inspection, it is sent to the buy parts inspection area, along with a receiving report. Under the PICS system, a copy of the receiving report showing the movement of the part into inspection, the inspection, and the movement of the part to a stockroom,

went to production control where a DEC entered the information into the system. Now, all three transactions are entered into the TIPPS system by Konyar. Konyar spends from 25 to 50 percent of her time entering data in a TIPPS computer. Konyar also works in the buy parts quality control office where she enters data involving rework activity on parts in the shop or other quality data throughout the Quality Department into a non-TIPPS computer. Konyar shares an office with three engineers. A clerical employee, who is in the unit, works in an adjoining office. Konyar spends 1 to 3 hours per workday doing word processing and general secretarial and clerical work. Occasionally, Konyar fills in when needed in the metrology area to do data entry functions.

Lori Adams and Linda Dollarhite, DECs in the Shipping Department, are supervised by Glenn Flook, supervisor of the shipping area. Flook also supervises shipping clerks and production and maintenance employees. Adams and Dollarhite work in the shipping office with Flook and the shipping clerks. The Employer installed computers in the shipping area in January 1988. There are currently TIPPS, CO-OPS, and PICS terminals in the shipping office or in the shipping area. The TIPPS computers were installed in December 1988. Orders received by the Employer are written by order entry clerks in the Order Services Department. Under PICS, these orders went to the MIS Department where the order was keypunched into the system. A pick list was generated the next day and used to pick the order. After the order was picked, a packing list was returned to the MIS Department where employees keypunched the information into the system. Under TIPPS, order entry clerks enter the orders directly into TIPPS instead of sending them to the MIS Department. At night, TIPPS matches available inventory to the orders and produces a pick list and pick tickets. The orders are then picked and the pick list is taken to Adams and Dollarhite in the shipping department who enter an ''issue transaction'' into TIPPS. This generates a preliminary packing list showing the order and the parts being shipped. The preliminary packing list is then used to record certain information and returned to a shipping clerk who types a shipping label. The preliminary packing list is given to Adams or Dollarhite who enter the information in TIPPS and print a final packing list which causes an invoice to be generated at night in the MIS Department. If there are shortages, TIPPS generates a list that notifies the stockrooms that parts need to be ordered or it informs production planners that parts need to be built or purchased.

Sue Hyde, turbine data coordinator in the production control section of the Material Control Department, works in an office and is an assistant to the turbine engine planner. Hyde spends about 50 percent of her time entering data, either in the production control section or in the Shipping Department. When entering data in the Shipping Department, Hyde operates the CO-OPS terminal where she enters items picked by the stockroom attendant into the terminal. The CO-OPS terminal was installed in the shipping office in August 1989.

Joan Fink and Carl Harris, DISAs in the Material Control Department, and Tambre Paulauski, a DEC in the Material Control Department, mainly work in the shop floor control office in the middle of the shop. The offices of Material Control Manager Kent Weiland and Supervisor of Shop Floor Control Larry Waldman are in an araa adjoining the shop control office. Waldman supervises Fink, Harris, Paulauski and about 25 to 30 material handlers, who are unit employees, as well as shop floor dispatchers who are not in the unit. In February 1987, the Employer installed a personal computer (PC) to record data coming from the shop floor. Work orders, which include parts needed to build an item, are sent to the shop floor control office which tells the particular department involved to release parts and to start tracking those parts. The DISAs enter this data into the PC in preparation for beginning the tracking process. At the same time, a material requisition form is used to record information about the parts. This form is sent to the shop floor control office where the DISAs enter the information into the PC. This data is used to generate various reports utilized in production management meetings. It is anticipated that the PCs will be replaced by TIPPS. When that occurs, the DISAs and the DEC will be entering the same information now entered in the PC into TIPPS, except for the initial work order data which already will be in the system. The record shows that, for the last 2 or 3 years, Harris and others have entered the same kind of data in an office across the hall from the one in which they currently work.

Kathy Weber, DEC in the overhaul and remanufactured parts stockroom in the Material Control Department, works at the one TIPPS terminal located inside the overhaul and remanufactured parts stockroom and is under the supervision of Foremen Leonard S. Zay. Zay is in charge of the overhaul and remanufactured parts stockroom and the new stock stockroom. Weber inputs data concerning the movement of parts into and out of the stockroom and the availability of engines for sale.

It is well established that unit clarification is appropriate for resolving ambiguities concerning the unit placement of individuals in a newly established classification or an existing classification which has undergone recent, substantial changes in the duties and responsibilities of the employees involved so as to create a real doubt as to whether such employees continue to fall within the classification in issue. *Union Electric Co*., 217 NLRB 666, 667 (1975). Based on the record evidence set forth above, I find that the positions of DEC in the Quality Department-Metrology Lab, Quality Department-Receiving Inspection Area, Shipping Department, and overhaul and remanufactured parts stockroom in the Material Control Department, and the turbine data coordinator in the production control section of the Material Control Department are new positions which did not exist before the parties entered into their most recent contract. Although certain data entry functions were performed in connection with the PICS computer system, the positions referred to above are sufficiently different from the previous positions as to be considered newly established classifications. Accordingly, I find that the petition to clarify the unit with respect to these classifications is timely filed and I shall clarify the unit in this respect. *Magna Corp*., 261 NLRB 104, 105 (1982); *Union Electric Co*., supra. However, as to the DISAs and the DEC in the shop floor control office, the record shows that PCs were installed and utilized in this area in February 1987, and that the DISA positions existed before the effective date of the parties' most recent contract. Accordingly, I find that the petition to clarify the unit with respect to the DISAs and the DEC in the shop floor control office of the Material Control Department is untimely, and I shall dismiss the petition as to these job classifications.

The Board has recognized that the distinction between office clericals and plant clericals is not always clear. *Hamilton Halter Co*., 270 NLRB 331 (1984). However, in determining whether an employee is an office or plant clerical, the Board considers whether the functions performed by the employee are closely allied to the production facility. *Gordonsville Industries*, 252 NLRB 563, 591 (1980). In the instant case, the parties' collective-bargaining agreement covers ''shop clerical employees'' but excludes clerical and office employees. While the DECs have a different pay scale, some different benefits, and possess different skills, they work under the same supervision and work in the same area as unit employees. Their data entry work is functionally related to the production and manufacturing process. *Columbia Textile Services*, 293 NLRB 1034, 1035 (1989). In these circumstances, I find that the DECs in the Quality Department-Metrology Lab, Quality Department-Receiving Inspection Area, Shipping Department, and overhaul and remanufactured parts stockroom in the Material Control Department, and the turbine data coordinator in the production control section of the Material Control Department are plant clericals.

ORDER

It is hereby ordered that the production and maintenance unit represented by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) and its Local 787 is clarified to include the data entry clerks in the Quality Department-Metrology Lab, Quality Department-Receiving Inspection Area, the Shipping Department, and the overhaul and remanufactured parts stockroom in the Material Control Department, and the turbine data coordinator in the production control section of the Material Control Department. It is further ordered that the production and maintenance unit is clarified to exclude the data entry clerk and the data input and status analysts in the shop floor control office in the Material Control Department.